

## THIRTEENTH DAY

(Continued)

(Wednesday, October 21, 1936.)

The House met at 10:00 o'clock a. m., and was called to order by Mr. Aikin.

## HOUSE BILLS ON FIRST READING

The following House bills, introduced today, (by unanimous consent) were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Fisher, Mr. Bradbury, Mr. Sessions and Mr. Davison of Fisher:

H. B. No. 59, A bill to be entitled "An Act amending Sections 17 and 17-A of Chapter 126 of the Acts of the Regular Session of the Forty-fourth Legislature; and declaring an emergency."

Referred to the Committee on Conservation and Reclamation.

By Mr. Fox and Mr. Petsch:

H. B. No. 60, A bill to be entitled "An Act providing for emergency relief for certain school districts in Texas to aid certain districts in the payment of teachers' salaries and in equipping certain school buildings in certain districts in which there has been an influx of children within scholastic age since the last scholastic enumeration in the State; making an appropriation to each of said districts for said purposes; prescribing the manner of disbursing the funds appropriated by this Act; and declaring an emergency."

Referred to the Committee on Appropriations.

By Mr. Rutta:

H. B. No. 61, A bill to be entitled "An Act to amend Section 3, of Chapter 89 of the Special Laws of the Regular Session of the Thirty-eighth Legislature, known as an Act to provide a more efficient road system for Colorado County, so as to provide for the laying off of the said county into convenient road precincts, the numbering thereof, describing such precincts by boundaries, providing for the manner of discontinuance of roads and parts of roads, and providing for reversion of the rights of way of roads and/or parts of roads, under certain conditions, in certain cases, and declaring an emergency."

Referred to the Committee on Highways and Motor Traffic.

By Mr. England:

H. B. No. 62, A bill to be entitled "An Act creating a special road law for Collin County, Texas; providing that said County may fund or refund the indebtedness outstanding against its Road and Bridge Fund as of February 11, 1936; setting forth the method of operation; validating the indebtedness proposed to be funded or refunded; validating all Acts and proceedings heretofore had by the Commissioners' Court of said County, and officers thereof, in respect to the funding or refunding of said indebtedness; authorizing the Commissioners' Court of said County to issue time warrants for the purpose of acquiring, by purchase or condemnation, lands for rights-of-way for roads or highways in and through said County, and which warrants may be issued without notice of intention and the right to referendum, and further authorizing said Commissioners' Court to fund or refund any such right-of-way warrants into coupon bonds, with the consent of the holders of such warrants, and without submitting the question of the issuance of such bonds to a vote of the people; providing this law shall be cumulative of general laws on the subject of roads and bridges, and general laws on funding or refunding bonds, not in conflict herewith; enacting provisions incident and relating to the subject and purpose of this Act; repealing all laws in conflict herewith; and declaring an emergency."

Referred to the Committee on Highways and Motor Traffic.

## LEAVE OF ABSENCE GRANTED

(By unanimous consent.)

Mr. Cooper was granted leave of absence for today, on account of illness, on motion of Mr. Davis.

## COMMUNICATION TO MEMBERS OF THE HOUSE

The Chair laid before the House, and had read the following communication:

"Your kind expressions of sympathy are gratefully acknowledged and deeply appreciated.

The family of

SENATOR ERNEST FELLBAUM."

### EXTENDING INVITATION TO MEMBERS OF THE HOUSE

The Chair laid before the House, and had read the following communication:

#### UNIVERSITY CENTENNIAL EXPOSITION

The University of Texas

Austin, Texas, October 21, 1936

Honorable Coke R. Stevenson,  
Speaker, House of Representatives  
Austin, Texas

Dear Sir:

In legislation providing for the Texas Centennial the Legislature made an appropriation for furnishing and equipping the Texas Memorial Museum and for gathering Museum materials, as a part of the state-wide celebration. These materials will go into the State Museum building now being constructed with the \$300,000 appropriation by the Federal government plus private gifts and the proceeds from the sale of the centennial coins under a plan originated by the American Legion.

Pending the completion of the building the University is presenting some of the Museum exhibits in various structures on the campus. More than a quarter of a million people of Texas and other states of the Union have inspected these exhibits since June 1.

The Legislature being largely responsible for the success of this undertaking it would be very fitting for the members to view the progress which has been made to date.

We wish therefore to extend an invitation to the members and to their families and friends, to visit the exhibits on Thursday evening, October 22. We suggest that the tour begin at the Natural History Division now temporarily housed in Gregory Gymnasium and then proceed to other buildings.

We will be greatly pleased if the members of your honorable body accept this invitation.

Respectfully yours,

UNIVERSITY CENTENNIAL  
EXPOSITION,  
WILLIAM L. MCGILL, Director.

### ACCEPTING INVITATION TO VISIT UNIVERSITY CENTENNIAL EXPOSITION

Mr. Leonard offered the following resolution:

Whereas, The House of Representatives has received an invitation to visit the exhibits in the University Centennial Exposition on Thursday evening, October 22, 1936, and to inspect materials which are being gathered and prepared for the Texas Memorial Museum; and

Whereas, This is an enterprise to which the Legislature has given its approval and support and in which the Members of this House are interested; therefore, be it

Resolved, That the House of Representatives accepts the invitation extended.

The resolution was read second time, and was adopted.

(Speaker in the Chair.)

### HOUSE BILL NO. 46 ON PAS- SAGE TO ENGROSSMENT

The Speaker laid before the House, as pending business, on its passage to engrossment,

H. B. No. 46, A bill to be entitled "An Act repealing Chapter 116, Acts of the First Called Session of the Forty-third Legislature, as amended by Chapter 354, Acts of the Regular Session of the Forty-fourth Legislature, and declaring an emergency."

The bill having been read second time on yesterday, with committee amendment by Mr. Morris, pending.

Question recurring on the committee amendment, it was adopted.

Mr. Alsup raised a point of order, on further consideration of House Bill No. 46, on the ground that the subject matter contained in the bill has not been submitted by the Governor.

### APPOINTMENT OF CERTAIN COMMITTEE

The Speaker announced the appointment of the following committee to investigate unauthorized change in certain House document:

Mr. Petsch, Mr. Calvert, Mr. Leonard, Mr. Morse and Mr. Walker.

HOUSE BILL NO. 41 ON SECOND  
READING

On motion of Mr. Lotief (by unanimous consent), the regular order of business was suspended at this time, to take up and have placed on its second reading and its passage to engrossment,

H. B. No. 41, A bill to be entitled "An Act fixing the compensation of county commissioners in every county having a population of not less than 12,757 nor more than 12,759 inhabitants according to the last preceding United States Census where the taxable values in said counties are not less than Five Million (\$5,000,000.00) Dollars nor more than Nine Million (\$9,000,000.00) Dollars; prescribing how the same shall be paid; repealing all laws in conflict herewith, and declaring an emergency."

The Speaker then laid House Bill No. 41 before the House, and it was read second time.

Mr. Lotief offered the following committee amendment to the bill:

Amend House Bill No. 41, page 1, by changing the words and figures "Twelve Thousand, Seven Hundred and Fifty-Nine (12,759) inhabitants," and inserting in lieu thereof Twelve Thousand, Eight Hundred (12,800) inhabitants, and by striking out the words and figures "Five Million (\$5,000,000.00) Dollars," and inserting in lieu thereof Seven Million (\$7,000,000.00) Dollars, and striking out the words and figures "Nine Million (\$9,000,000.00) Dollars," and inserting in lieu thereof Seven Million, Two Hundred and Twenty-Five Thousand (\$7,225,000.00) Dollars.

The amendment was adopted.

Mr. Hankamer offered the following amendment to the bill:

Amend House Bill No. 41, by striking out all of Section Two (2) and by inserting in lieu thereof the following:

"Sec. 2. The provisions of this Act shall be cumulative of any existing law and shall in no respect repeal any existing law effecting any other county or counties."

The amendment was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

House Bill No. 41 was then passed to engrossment.

HOUSE BILL NO. 41 ON THIRD  
READING

Mr. Lotief moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 41 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—118

Adamson	Hill
Aikin	Hodges
Alexander	Hofheinz
Alsup	Holland
Ash	Hoskins
Atchison	Howard
Bergman	Huddleston
Bourne	Hunt
Bradbury	Hunter
Bridgers	Hyder
Broadfoot	Jackson
Broyles	Jefferson
Burton	Jones of Atascosa
Butler of Brazos	Jones of Shelby
Butler of Karnes	Jones of Wise
Caldwell	Keefe
Canon	King
Collins	Knetsch
Cowley	Lange
Craddock	Lanning
Daniel	Latham
Davison of Fisher	Leath
Davisson	Lemens
of Eastland	Leonard
Dickison	Lindsey
Dunagan	Lotief
Dunlap of Hays	Luker
Duvall	Mauritz
Dwyer	McCalla
Fain	McFarland
Farmer	McKee
Fisher	McKinney
Ford	Moffett
Fox	Moore
Fuchs	Morris
Gibson	Morrison
Glass	Morse
Good	Newton
Graves	Olsen
Gray	Palmer
Greathouse	Patterson
Hankamer	Payne
Hanna	Petsch
Hardin	Quinn
Harper	Reader
Harris of Archer	Reed of Bowie
Harris of Dallas	Reed of Dallas
Hartzog	Riddle
Herzik	Roach of Angelina

Roach of Hunt	Tillery
Roane	Venable
Russell	Waggoner
Settle	Walker
Shofner	Wells
Smith	Wood of Harrison
Steward	Wood of Montague
Stinson	Worley
Stovall	Young
Tarwater	Youngblood
Thornton	

Nays—8

Adkins	Jones of Falls
Bradford	Rogers
Cagle	Sessions
Davis	Westfall

Present—Not Voting

McConnell	Rutta
-----------	-------

Absent

Calvert	James
Celaya	Nicholson
Colson	Pope
Crossley	Roark
Dunlap of Kleberg	Scarborough
England	Spears
Frazer	Stanfield
Head	Tennyson

Absent—Excused

Colquitt	Padgett
Cooper	Roberts
Lucas	

The Speaker then laid House Bill No. 41 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—115

Adamson	Craddock
Aikin	Daniel
Alexander	Davisson
Alsup	of Eastland
Ash	Dickison
Atchison	Dunagan
Bergman	Dunlap of Hays
Bourne	Dunlap of Kleberg
Bradbury	Duvall
Bridgers	Dwyer
Broadfoot	Fain
Broyles	Farmer
Burton	Fisher
Butler of Brazos	Ford
Butler of Karnes	Fox
Cagle	Fuchs
Caldwell	Gibson
Canon	Glass
Collins	Good
Cowley	Graves

Gray	McFarland
Greathouse	McKinney
Hankamer	Moffett
Hanna	Moore
Harper	Morris
Harris of Archer	Morrison
Harris of Dallas	Newton
Hartzog	Olsen
Herzik	Palmer
Hill	Patterson
Hodges	Payne
Hofheinz	Petsch
Holland	Quinn
Hoskins	Reader
Howard	Reed of Bowie
Huddleston	Reed of Dallas
Hunt	Riddle
Hunter	Roach of Angelina
Hyder	Roach of Hunt
Jackson	Roane
Jefferson	Roark
Jones of Atascosa	Russell
Jones of Falls	Settle
Jones of Shelby	Shofner
Jones of Wise	Smith
Keefe	Steward
King	Stinson
Knetsch	Stovall
Lange	Tarwater
Latham	Thornton
Leath	Tillery
Lemens	Venable
Leonard	Waggoner
Lindsey	Walker
Lotief	Wells
Mauritz	Wood of Harrison
McCalla	Worley
McConnell	Youngblood

Nays—9

Adkins	Morse
Bradford	Rogers
Crossley	Sessions
Davis	Westfall
Hardin	

Present—Not Voting

Davison of Fisher	Wood of Montague
Rutta	

Absent

Calvert	McKee
Celaya	Nicholson
Colson	Pope
England	Scarborough
Frazer	Spears
Head	Stanfield
James	Tennyson
Lanning	Young
Luker	

Absent—Excused

Colquitt	Padgett
Cooper	Roberts
Lucas	

## MESSAGE FROM THE SENATE

Austin, Texas, October 21, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

H. B. No. 8, A bill to be entitled "An Act levying and imposing occupation taxes on certain industries, and public utilities, and natural resources; providing how the moneys, so derived, shall be allocated to the Texas Old Age Assistance Fund; levying an occupation tax on gas, electric light, electric power, or water works, or water and light plants, etc.; and declaring an emergency." With amendments.

Adopted S. C. R. No. 14, Authorizing State Highway Department to lend to City of Waco and McLennan County certain equipment.

Adopted H. C. R. No. 17, Granting G. C. Kent of El Paso County, Texas, permission to sue the State.

Adopted H. C. R. No. 20, Commending the State Highway Department for erecting border signs, etc.

Respectfully,

BOB BARKER,

Secretary of the Senate.

## SENATE BILL NO. 3 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to third reading,

S. B. No. 3, A bill to be entitled "An Act validating all levies and assessments of ad valorem taxes heretofore made by independent school districts, etc."

The bill was read second time.

Question—Shall Senate Bill No. 3 pass to third reading?

## RECESS

On motion of Mr. Hartzog, the House at 12:15 o'clock p. m., took recess to 2:00 o'clock p. m., today.

## AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by the Speaker.

## GRANTING USE OF CERTAIN STATE HIGHWAY EQUIPMENT

The Speaker laid before the House for consideration at this time, the following resolution:

S. C. R. No. 14, Granting use of certain highway equipment.

Whereas, The State Highway Department, possesses certain grading and dirt moving machinery and other equipment needful and necessary in the process of levee building and flood control; and

Whereas, On the 27th day of September, 1936, the City of Waco was subjected to a disastrous overflow from the Brazos River breaking and materially injuring the levee heretofore erected for the protection of East Waco, and washing out much of the river bank throughout the City of Waco; and

Whereas, The Division Headquarters, including the office building and shops of the State Highway Department, are located in the area afflicted by said flood; and

Whereas, It is necessary for the protection of the property of the Highway Department, as well as for the protection of the general public, that such levee be built that the river banks on both sides of the Brazos River and Waco be protected and levelled, and that other needful and necessary work be done on the premises to prevent the recurrence of such disastrous flood; now, therefore, be it

Resolved by the Senate of Texas, the House of Representatives concurring, That the Texas State Highway Department be and the same is hereby authorized and requested to lend such equipment as it has available for such work to the City of Waco and/or to McLennan County to be used by either of said agencies, either jointly, severally, or in cooperation with any of the agencies of the Federal government for the purpose of rebuilding such levee and protecting such river banks, and for such other service as may be needed in connection with the prevention of the recurrence of such disastrous floods in and about said City of Waco, it being understood that such equipment shall remain in the custody of the City of Waco and/or McLennan County only so long as needed for such work, and that no

burden of any kind shall be placed on the State Highway Department by reason of such loan.

The resolution was read second time, and was adopted.

#### HOUSE BILL NO. 8 WITH SENATE AMENDMENTS

Mr. Frazer called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 8, A bill to be entitled "An Act levying and imposing occupation taxes on certain industries, and public utilities, and natural resources; providing how the moneys, so derived, shall be allocated to the Texas Old Age Assistance Fund; levying an occupation tax on gas, electric light, electric power, or water works, or water and light plants, etc., and declaring an emergency."

The Speaker laid the bill before the House with the Senate amendments.

Mr. Frazer moved that the House do not concur in the Senate amendments, and that a conference committee be requested to adjust the differences between the two Houses on the bill.

Mr. Gibson raised the following point of order:

"I raise the point of order that the Small Amendment, shown on pages 120 to 125 of the Senate Journal and adopted by the Senate on October 17, 1936, is in violation of Sec. 30 of Art. III of the Constitution of the State of Texas, which Section reads as follows: 'No law shall be passed, except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.'"

I submit in support of this point of order that the original purpose of House Bill No. 8 was to raise revenue to carry out the provisions of the Old Age Assistance Act as it now exists, while the purpose of the Small Amendment is to change both the policy and the method of administering the Old Age Assistance Act. In other words, the original purpose of House Bill No. 8 was to make the revenue fit the present law, while the purpose of the Small Amendment is to make the law fit the present and prospective revenue.

In further support of this point of order, I would call the attention of

the Chair to the fact that House Bill No. 8, under Sec. 33 of Art. III of the State Constitution could not have been introduced except in the House of Representatives. The fact that Senator Small's Amendment does change the original purpose of the Bill should be obvious, when it is considered that his amendment, if embodied in a separate bill, could have been introduced in the Senate as well as it could in the House.

As a precedent for my position on the point of order, I cite the Chair to his ruling on a similar point of order raised against House Bill No. 65 in the Regular Session of the Forty-fourth Legislature, which said point of order and the ruling thereon, and the reasons therefor are given on pages 2540 to 2546 of the House Journal.

I raise the further point of order that the Small Amendment to House Bill No. 8 does not come within the Governor's call."

The Speaker sustained the point of order.

Mr. Latham raised the following point of order:

"I raise a point of order against Senate Amendment No. 30 to House Bill No. 8, which amendment seeks to empower the Board of Mineral Development to lease the rights-of-way of all State designated highways for drilling for oil and gas, for the reason that said amendment does not come within the Governor's call in that it is not a tax measure, but in effect it amends the Conservation Laws of the State of Texas which subject matter has not been opened for legislation at this session by the Governor.

I raise the further point of order that said amendment violates Section 17 of Article I of the Constitution in that it undertakes to vest the power of eminent domain in an individual for personal and private use which is not authorized by the aforementioned section of the Constitution. In this connection your attention is directed to the fact that this amendment seeks to empower a lessee from the State of highway right-of-way to condemn the property of adjoining owners for the purpose of erecting drilling equipment.

I raise the further point of order that said amendment violates Section 19 of Article I of the Constitution in

that it undertakes to deprive citizens of this State of property without due course of the law of the land. In this connection your attention is directed to Section 16J of said amendment wherein it is provided that when the State owns only an easement in any highway right-of-way that same may be leased for mineral development and one-half of the minerals shall accrue to the State.

I raise the further point of order that said amendment violates Section 30 of Article III of the Constitution in that it injects a new and separate subject matter into the original bill so as to change its original purpose during the course of its passage; said new subject matter being in effect an amendment to the Conservation Laws of Texas and the laws pertaining to the leasing of State lands for mineral development.

I raise the further point of order that said amendment violates Section 35 of Article III of the Constitution in that it injects into the original bill an entirely new and distinct subject matter, thereby causing the bill to contain more than one subject matter; said new subject matter being as expressed in the next preceding paragraph, and the subject matter of the original bill having been 'taxation.'

I raise the further point of order that said amendment is wholly unintelligible and incapable of intelligent construction in that it seeks to re-enact in part the provisions of Senate Bill 203, Acts of the Regular Session, Forty-third Legislature 1933, and apply the provisions of said Act to the leasing of highway rights-of-way, when the said Bill 203 was enacted with reference to river bed leases and is wholly inapplicable to the purpose undertaken to be accomplished in this amendment."

Respectfully submitted,

LATHAM.

The Speaker sustained the point of order.

Mr. Pope raised the following points of order against further consideration of House Bill No. 8:

"I raise the point of order, against House Bill No. 8, because the same is violative of Sections 35 and 36 of Article 3 of the Constitution in that each subdivision of the bill constitutes and is an amendment to the various original Acts, Statutes and Titles to which it refers, and is in

fact an amendment without re-enacting and publishing at length the parts of the Acts, Articles and Laws attempted to be amended, and by virtue of the amendments to said various Acts, Articles and Laws the bill contains more than one subject and is violative of said Section 35 of said Article III, and it is impossible to determine which of said attempted amendments constitute the original bill.

I raise the point of order, against House Bill No. 8, for the reason that the bill as passed by the Senate with Senate amendments is violative of Section 40, Article III of the Constitution in that the bill contains various subjects other than those designated in the proclamation of the Governor calling this Special Session.

I raise the point of order, against House Bill No. 8, because it is violative of Section 35, Article III and Section 1 of Article VIII of the Constitution and other provisions of the Constitution in that the bill contains more than one subject and seeks to deal with various different kinds of taxes in one Act authorized under the Constitution and in such form is particularly violative of Section 1 of Article VIII where taxation is required to be equal and uniform, and is both a Special Law and a General Law.

I raise a point of order, against House Bill No. 8, for the reason that since the point of order has been sustained to what is known as the Small amendment there is nothing left in the bill that comes under the Governor's call and that with the Small amendment eliminated the bill becomes an Appropriation bill.

I raise the point of order, that House Bill No. 8, is violative of Section 35 of Article III of the Constitution in that the insertion in the bill of the Small amendment and the insertion in the bill of the Hill amendment relating to leasing of public highways embraces in the bill more than one subject, to wit, three subjects, and that by reason of said two subjects or three subjects under said bill the entire bill becomes void.

The House does not have the power to say which part of the bill or which subject in the bill shall remain in that the title expresses each subject.

I raise the point of order, against House Bill No. 8, that it is violative

of Section 30 of Article III of the Constitution because it has been so amended in its passage through the Senate as to change its original purpose, and the House does not have the power to eliminate a part of the bill as passed by the Senate to bring it outside of inhibition in the Constitution, but that when said inhibition in the Constitution is violated, by virtue of the amendment changing the original purpose of the bill, the entire bill becomes void except in the due order of Legislation. One House has not the power to carve out of an entire Act the objectionable virtues and thereby bind the other House to accept what is left, which in the judgment of the House might take the bill out from said constitutional inhibition.

I raise the point of order, against House Bill No. 8, for the reason that in its now condition, since the point of order has been sustained in the Small amendment, it ceases to be the bill that was passed by the Senate and cannot be considered for any purpose, and to change the bill as passed by the Senate would violate Section 31 of Article III of the Constitution which permits the Senate to amend, alter or reject a bill that originated in the House.

By the action of the House in eliminating the Small amendment the bill becomes void in that it is not the bill that was passed by the Senate and cannot be considered by the House or by the Senate.

I raise the point of order, against House Bill No. 8, for the reason that it is violative of Section 33 of Article III of the Constitution in that when it originated in the House it was a revenue raising bill, but the Senate, having inserted original, different and distinct sources of revenue raising, violated the spirit and intention of the Constitution, and to that extent inserted additional and definite methods and sources of raising revenue."

The Speaker severally overruled the points of order.

Mr. Hartzog moved the previous question on the motion by Mr. Frazer, and the motion was duly seconded.

Question recurring on the motion for the main question, it was lost.

Mr. Westfall moved that the House concur in the Senate amendments,

with the exception of those that have been ruled out on points of order.

Mr. Fain moved to table the motion by Mr. Westfall.

The motion to table prevailed.

Question recurring on the motion by Mr. Frazer, that the House do not concur in the Senate amendments, and request the appointment of a conference committee, to adjust the differences between the two Houses, it prevailed.

Mr. Roark submitted the following motion to instruct the conference committee:

I move that the House conferees on House Bill No. 8, be instructed to vote against any provision in said tax bill or any amendment that might be offered in conference committee which would tend to alter the present Old Age Pension set-up or policy.

ROARK,  
JONES of Wise,  
FAIN,  
KEEFE,  
FARMER,  
VENABLE.

(Pending consideration of the motion by Mr. Roark, Mr. Head occupied the Chair temporarily.)

(Speaker in the Chair.)

#### REASONS FOR VOTE

We object to the Small amendment to House Bill No. 8, on repealing House Bill No. 26, of the Second Called Session of the Forty-fourth Legislature for the following reasons:

"1. Said amendment is not germane to the bill.

2. For the further reason that said amendment is not within the call of the Governor for Legislation for this Special Session.

3. For the further reason that it is in violation of Section 30 of Article III of the Constitution of Texas in that the original purpose of the bill by this amendment was changed in its passage through the Senate."

ALSUP,  
FARMER,  
HARDIN.



## MESSAGE FROM THE SENATE

Austin, Texas, October 21, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

H. C. R. No. 19, Authorizing the Secretary of State to dispose of surplus copies of the House and Senate Journals.

Respectfully,

BOB BARKER,  
Secretary of the Senate.

## ADDRESS BY HON. WILLIAM C. REPASS

Mr. Moffett offered the following resolution:

Whereas, The House of Representatives is honored this afternoon by the presence of the Honorable William C. Repass of Harris County, Texas; and

Whereas, Mr. Repass is not only a distinguished Journalist and Managing Editor of the Houston Chronicle, but has also been a life-long Democrat and has rendered worthy and distinguished service to the Democratic party in many ways, and delivered the key-note address to the recent Democratic State Convention at Fort Worth, Texas, and is a gentleman of outstanding ability as a speaker; therefore, be it

Resolved, That the House of Representatives extend an invitation to the Honorable William C. Repass to address this Honorable Body this afternoon for a few minutes on a subject of his own choosing.

MOFFETT,  
MORSE,  
McCALLA,  
HOFHEINZ,  
HOWARD,  
HOLLAND.

The resolution was read second time, and was adopted.

In accordance with the above action, Hon. William C. Repass was escorted to the Speaker's stand by Mr. Moffett, and Mr. Morse. Speaker Stevenson presented Mr. Moffett, who in turn introduced Hon. William C. Repass.

Mr. Repass then addressed the House.

## RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice

thereof, and their captions had been read severally, the following enrolled resolutions:

H. C. R. No. 20, Commending the State Highway Department.

H. C. R. No. 17, Granting G. C. Kent permission to sue the State.

## LEAVE OF ABSENCE GRANTED

(By unanimous consent.)

Mr. Knetsch was granted leave of absence for this afternoon, on account of important business, on motion of Mr. Latham.

## MESSAGE FROM THE SENATE

Austin, Texas, October 21, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

S. B. No. 19, A bill to be entitled "An Act making it lawful to hunt wounded wild deer with one dog in the counties of Liberty and Hardin, Texas."

S. B. No. 15, A bill to be entitled "An Act to create Road District No. 1-A in Cass County, Texas, etc."

S. C. R. No. 12, Resolution relating to, and providing for, the payment of warrants and vouchers issued by towns and cities in the State of Texas, etc.

Respectfully,

BOB BARKER,  
Secretary of the Senate.

## MESSAGE FROM THE GOVERNOR

Hon. James V. Allred, Governor, was announced at the Bar of the House, and being admitted and escorted to the Speaker's stand, presented the following message:

Austin, Texas, October 21, 1936

To the Members of the Forty-fourth Legislature:

When this Legislature was convened in Extraordinary Session I submitted to you the subject of providing "further necessary revenue for Old Age Assistance to persons entitled to same under the provisions of said House Bill No. 26 as passed by the Second Called Session of the Forty-fourth Legislature." Up to this time a so-called "Omnibus" Tax Bill has passed the House and, after certain amendments, has likewise

passed the Senate. One of these amendments, introduced by Senator Small, in effect revamps the entire Old Age Assistance Law and has the effect of "deliberalizing" same. It is intended, as I understand, to limit Old Age Assistance to those persons over sixty-five who are actually in need.

The tax bill with this amendment has now been returned to the House; and a point of order was sustained upon the ground, among others, that the Small amendment did not come within the Governor's call. Only five working days are left in this Session; and if anything is to be done, it must be quickly.

I am sure you were appalled, as I have been, with the facts and figures presented by the director of the Old Age Assistance Commission showing indisputably that ours is the most liberal Old Age Assistance Law in the Nation. Under it more people are qualifying, and will continue to qualify, to each one thousand inhabitants than any other State in the Union. I think the estimate of 150,000 who will be eligible to qualify for Old Age Assistance benefits under the present law is conservative indeed. Unquestionably, in order for the State to pay one-half of the probable cost of Old Age Assistance to these 150,000 people, even on an average of \$8.00 per month to the State's part, Fifteen Million Dollars will be required. I am certain in my own mind that the Federal Government will not match us for any such huge sum of money. Common sense tells us, and I have been so informed by Federal officials, that necessarily there is a limit to the amount which any state can reasonably expect to receive from the Federal Government.

The present tax bill as it passed either House cannot possibly take care of the demands of the 150,000 people who are eligible under the present law. We are up against the most stupendous money raising program any Legislature has ever had. Frankly, unless the law is changed so as to cut down the number of applicants, and thereby the demands upon the public treasury, the taxpayers of this State are faced with a picture so dark it can hardly be painted in words.

You are familiar with my views upon taxation, in which I have here-

tofore recommended substantial increases in natural resource and industry taxes. As a practical matter, however, it now appears utterly impossible to raise from these sources the amounts of money necessary to adequately finance present and future demands. We want to take care of our needy aged; but it is another thing when it comes to the matter of taking money from industrious and thrifty people to give to people who do not need it. Frankly, unless the present law is deliberalized, I fear the ultimate outcome will be not only increased natural resource and industry taxes but a general sales tax as well. This we cannot afford!

A great deal has been said in the past about what the people intended when they voted this amendment. May I remind you of the record? The first candidate for Governor to advocate old age assistance in 1934, Mr. McDonald, urged not exceeding \$15.00 per month for our aged citizens "who are without sufficient income or relatives to support them." He further said he wanted to see the day come when the road that leads over the hill to the poorhouse will be closed forever.

In the run off campaign I urged the submission of a constitutional amendment to authorize the State to coordinate its program for old age assistance with that of the Federal Government.

Now, the program of the Federal Government does not call for "pensions." It calls for "assistance" to the aged needy. Our constitutional amendment nowhere mentions "pensions." It likewise provides for "assistance" to the needy. In my humble judgment, the people of this State did not intend to authorize payment of public moneys to people who are not actually in need.

In all sincerity, members of the Legislature, I tell you that I am beset with gravest fears for the welfare of our State if the present trend continues. I think it is destructive of human character to give pensions to people who are not in need. I think we will destroy the American spirit and encourage children to be unmindful of the Biblical admonition to honor our fathers and our mothers. I am told that the records of the Old Age Assistance Commission disclose many instances of sons and daughters who ask that the State assume the burden

of supporting their parents. Instances of property transfers from parents to children are being uncovered from day to day. This is wrong in principle; and the State ought not to be a party to a program that encourages it.

One of the principal difficulties with the present law is the fact that applicants are entitled to own property of stipulated values and have incomes up to a certain amount per year, and yet be eligible for old age assistance if in need. This has created the impression among the people that even though they have the amount of property or the income specified in the statute, yet they are entitled to aid even though they may not be in actual need. These provisions should be stricken out of the law.

It seems to me the time has come for us as patriots to do our duty irrespective of political consequences. It has always been my experience that in the long run doing the right thing was the best politics. We have a golden opportunity to stem the tide of State paternalism. Unless it is done, the tendency will in time develop into a settled policy and, in my judgment, bankrupt the State.

I, therefore, recommend to you deliberalization of the present law under which applicants are entitled to qualify for old age assistance. In general, I favor and would approve the policies of the amendment adopted in the State Senate. I have not submitted this subject to you heretofore because I feared it might jam the machinery and prevent the passage of any kind of tax legislation. I make this recommendation with the fervent hope that during the remaining days of the session we will put our shoulders to the wheel and do this big job for Texas.

Respectfully submitted,

JAMES V. ALLRED,  
Governor of Texas.

#### MESSAGE FROM THE SENATE

Austin, Texas, October 21, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

S. B. No. 20, A bill to be entitled "An Act validating all proceedings heretofore had by the governing bodies of all counties, cities and towns in

connection with the issuance of bonds, etc."

S. B. No. 14, A bill to be entitled "An Act amending Section I of Chapter 4 of the Acts of the Second Called Session of the Forty-third Legislature, 1934; and declaring an emergency."

S. B. No. 13, A bill to be entitled "An Act to validate, ratify, approve, confirm and declare enforceable all levies and assessments of ad valorem taxes, etc., and declaring an emergency."

Respectfully,

BOB BARKER,  
Secretary of the Senate.

#### HOUSE BILLS ON FIRST READING

The following House bills, introduced today, (by unanimous consent) were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mrs. Moore:

H. B. No. 63, A bill to be entitled "An Act amending Article 3188 of the Revised Civil Statutes of Texas, 1925, designating State Hospitals to which insane, epileptic, and feeble-minded persons may be committed for care or treatment and providing for the transfer of patients from one institution to another, and providing for the commitment and transfer of such patients to the United States Veterans' Administration or such other agency or department of the United States as will accept such patients for care or treatment, and declaring an emergency."

Referred to the Committee on Eleemosynary and Reformatory Institutions.

By Mr. Hardin:

H. B. No. 64, A bill to be entitled "An Act to amend House Bill No. 423, Acts of the Forty-fourth Legislature, Regular Session, by providing that Limestone County be excepted from the provisions of said bill, and declaring an emergency."

Referred to the Committee on Game and Fisheries.

By Mr. Alsup:

H. B. No. 65, A bill to be entitled "An Act providing for the amount that may be allowed by County

Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special in conflict herewith; and declaring an emergency."

Referred to the Committee on Education.

By Mr. Hankamer, Mr. Jackson and Mr. Bridgers:

H. B. No. 66, A bill to be entitled "An Act making appropriations to defray the costs assessed against the State of Texas of the Rio Grande joint investigation being conducted by the National Resources Committee, through the Water Resources Committee, constituted under Act of Congress, and making appropriations to pay the court cost and expenses of the Attorney General in the prosecution of the complaint of the State of Texas vs. the State of New Mexico, et al, No. 12 Original, October term, 1936, in the Supreme Court of the United States, and declaring an emergency."

Referred to the Committee on Appropriations.

#### SENATE BILLS ON FIRST READING

The following Senate Bills, received from the Senate today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

S. B. No. 15, to the Committee on Highways and Motor Traffic.

S. B. No. 19, to the Committee on Game and Fisheries.

S. B. No. 20, to the Committee on Judiciary.

S. B. No. 14, to the Committee on Conservation and Reclamation.

S. B. No. 13, to the Committee on Judiciary.

#### RECESS

On motion of Mr. Alexander, the House at 5:10 o'clock p. m., took recess to 10:00 o'clock a. m., tomorrow.

#### APPENDIX

#### STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills as follows:

Conservation and Reclamation: House Bill No. 59.

Highways and Motor Traffic: House Bills Nos. 61, 62 and Senate Bill No. 15.

#### REPORT OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,

Austin, Texas, October 21, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 41, A bill to be entitled "An Act fixing the compensation of county commissioners in every county having a population of not less than 12,757 nor more than 12,759 inhabitants according to the last preceding United States Census where the taxable values in said counties are not less than Five Million (\$5,000,000.00) Dollars nor more than Nine Million (\$9,000,000.00) Dollars; prescribing how the same shall be paid; repealing all laws in conflict herewith, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

#### REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, October 21, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 17, Granting G. C. Kent of El Paso County, Texas, permission to sue the State.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 21, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 20, Commending the Highway Department for constructing information offices at important state-line points.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

**In Memory of**  
**Judge Clarence Martin**

---

Mr. Stevenson offered the following resolution:

Whereas, Judge Clarence Martin, of Stonewall, Gillespie County, Texas, died on the 31st day of August, 1936; and

Whereas, Judge Martin was one of the outstanding and distinguished citizens of this State, some of the chief events in his life being: born in San Marcos, Texas, November 26, 1868; removed to Blanco with his parents in 1874. In 1884, he went to Colorado City and engaged in work on the big cow ranches, making several trips up the trails with herds and going into New Mexico, Colorado and Wyoming. He returned to Blanco about 1888 and studied law at night after working in the fields during the day. He was admitted to the Bar and practiced law with his father, W. W. Martin, at that time one of the ablest lawyers in the State. He was elected to the House of Representatives in 1892, and served his district faithfully and well. In 1900, Judge Martin was elected District Attorney of the old Thirty-third Judicial District. He served in this capacity with such signal ability and fidelity to his duty that, two years later, he was elected District Judge by the largest majority ever given a candidate who had an opponent. He was re-elected in 1906, 1910 and 1914, and in 1915 resigned from the bench to engage in the private practice of law with his son, Honorable Thomas J. Martin. In 1912, Judge Martin was appointed by Governor Colquitt as an Associate Justice of the Court of Civil Appeals at San Antonio, Texas. After several days, Judge Martin declined this appointment in order to continue his work as District Judge and manage his farm properties. After his resignation from the bench in 1915, he engaged in some of the most noted trials in the history of the State and came to be regarded as one of Texas' most distinguished lawyers. Judge Martin rendered valiant aid to Mrs. Clara Driscoll Sevier and Miss Adina De Zavala in their efforts to save the Alamo in San Antonio. He held public meetings throughout the entire district and collected a substantial fund by public subscription toward the purchase of the property by the State. In the Houston Democratic Convention in 1904, he presented a resolution which was adopted, committing the Democratic party as favoring an appropriation by the State for the purchase of the property; and

Whereas, Throughout his entire public career, Judge Martin was recognized as a gifted orator, able lawyer, patriotic statesman and a just and upright judge and as a man who reflected honor upon his native State; therefore, be it

Resolved by the House of Representatives of the Forty-fourth Legislature, That we deplore the untimely loss of Judge Clarence Martin, and express

our sincere regrets to the members of his family, and that when the House adjourns today, it do so in honor of his memory, and that a page of the Journal be set apart for the enrollment of this resolution, and that a copy of the resolution be furnished to the members of his family.

STEVENSON

The resolution was read second time.

Signed—Adamson, Adkins, Aikin, Alexander, Alsup, Ash, Atchison, Bergman, Bourne, Bradbury, Bradford, Bridgers, Broadfoot, Broyles, Burton, Butler of Brazos, Butler of Karnes, Cagle, Caldwell, Calvert, Canon, Celaya, Collins, Colquitt, Colson, Cooper, Cowley, Craddock, Crossley, Daniel, Davis, Davison of Fisher, Davisson of Eastland, Dickison, Dunagan, Dunlap of Kleberg, Dunlap of Hays, Duvall, Dwyer, England, Fain, Farmer, Fisher, Ford, Fox, Frazer, Fuchs, Gibson, Glass, Good, Graves, Gray, Greathouse, Hankamer, Hanna, Hardin, Harper, Harris of Archer, Harris of Dallas, Hartzog, Head, Herzik, Hill, Hodges, Hofheinz, Holland, Hoskins, Howard, Huddleston, Hunt, Hunter, Hyder, Jackson, James, Jefferson, Jones of Wise, Jones of Shelby, Jones of Falls, Jones of Atascosa, Keefe, King, Knetsch, Lange, Lanning, Latham, Leath, Lemens, Leonard, Lindsey, Lotief, Lucas, Luker, Mauritz, McCalla, McConnell, McFarland, McKee, McKinney, Moffett, Moore, Morris, Morrison, Morse, Newton, Nicholson, Olsen, Padgett, Palmer, Patterson, Payne, Petsch, Pope, Quinn, Reader, Reed of Bowie, Reed of Dallas, Riddle, Roach of Hunt, Roach of Angelina, Roane, Roark, Roberts, Rogers, Russell, Rutta, Scarborough, Sessions, Settle, Shofner, Smith, Spears, Stanfield, Steward, Stinson, Stovall, Tarwater, Tennyson, Thornton, Tillery, Venable, Waggoner, Walker, Wells, Westfall, Wood of Montague, Wood of Harrison, Worley, Young and Youngblood.

On motion of Mr. Frazer, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

In Memory of

**Hon. W. W. Fitzwater**

---

Mr. Broadfoot offered the following resolution:

Whereas, The Members of the House of Representatives learned with deep regret of the passing of Hon. W. W. Fitzwater, of Bonham, Fannin County, Texas, on December 5, 1935, at the age of 66 years; and

Whereas, Mr. Fitzwater was an outstanding Member of the House of Representatives, who served his District, the 41st, and the State of Texas with great earnestness and endeavor, making for himself a position greatly respected by the citizens of his district and the State; and

Whereas, Hon. W. W. Fitzwater is greatly missed by his many friends in the House of Representatives, who have lost a valued co-worker, who was always highly conscientious in the performance of his duties; and

Whereas, Our sincerest sympathy goes out to the members of his family in their great loss; therefore, be it

Resolved, That the Members of the Forty-fourth Legislature express their regret at the death of this outstanding statesman and citizen; and, be it further

Resolved, That a copy of this resolution be spread on the Journal of today in memory of the deceased; and, be it further

Resolved, That the Chief Clerk of the House be directed to send copies of this resolution to the members of Mr. Fitzwater's family, under the seal of the Chief Clerk of the House of Representatives.

BROADFOOT,  
CANON,  
LOTIEF,  
STOVALL,  
MOORE.

The resolution was read second time.

Signed—Stevenson, Speaker; Adamson, Adkins, Aikin, Alexander, Alsup, Ash, Atchison, Bergman, Bourne, Bradbury, Bradford, Bridgers, Broyles, Burton, Butler of Brazos, Butler of Karnes, Cagle, Caldwell, Calvert, Celaya, Collins, Colquitt, Colson, Cooper, Cowley, Craddock, Crossley, Daniel, Davis, Davison of Fisher, Davisson of Eastland, Dickison, Dunagan, Dunlap of Kleberg, Dunlap of Hays, Duvall, Dwyer, England, Fain, Farmer, Fisher, Ford, Fox, Frazer, Fuchs, Gibson, Glass, Good, Graves, Gray, Greathouse, Hankamer, Hanna, Hardin, Harper, Harris of Archer, Harris of Dallas, Hartzog, Head, Herzik, Hill, Hodges, Hofheinz, Holland, Hoskins, Howard, Huddleston, Hunt, Hunter, Hyder, Jackson, James, Jefferson, Jones of Wise, Jones of Shelby, Jones of Falls, Jones of Atascosa, Keefe, King, Knetsch, Lange, Lanning, Latham, Leath, Lemens, Leonard, Lindsey, Lucas, Luker, Mauritz, McCalla, McConnell, McFarland, McKee, McKinney, Moffett, Morris, Morrison, Morse, Newton, Nicholson, Olsen, Padgett, Palmer, Patterson, Payne, Petsch, Pope, Quinn, Reader, Reed of Bowie, Reed of Dallas, Riddle, Roach of Hunt, Roach of Angelina, Roane, Roark, Roberts, Rogers, Russell, Rutta, Scarborough, Sessions, Settle, Shofner, Smith, Spears, Stanfield, Steward, Stinson, Tarwater, Tennyson, Thornton, Tillery, Venable, Waggoner, Walker, Wells, Westfall, Wood of Montague, Wood of Harrison, Worley, Young and Youngblood.

On motion of Mr. Canon, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.